

Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement of any of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such finding in administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interest will permit, with respect to the movement of any of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(c) No restrictions are placed hereby on the movement of fruits or vegetables in either direction between Puerto Rico and the Virgin Islands of the United States.

(d) This subpart leaves in full force and effect §318.30 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of all varieties of sweetpotatoes (*Ipomoea batatas* Poir.). It also leaves in full force and effect §318.60 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of sand, soil, or earth about the roots of plants.

(e) Regulations governing the movement of live plant pests designated in this section are contained in part 330 of this chapter.

[28 FR 13281, Dec. 7, 1963, as amended at 30 FR 748, Jan. 23, 1965]

#### RULES AND REGULATIONS

##### §318.58-1 Definitions.

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other em-

ployee of the Animal and Plant Health Inspection Service authorized to act in the Administrator's stead.

*Animal and Plant Health Inspection Service.* The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

*Cactus plants.* Any of various fleshy-stemmed plants of the botanical family Cactaceae.

*Certificate.* A document signed by an inspector certifying that a particular ship, vessel, other surface craft, or aircraft, or any specified lot or shipment of fruits or vegetables or other plant materials, via baggage, parcel post, express, freight or other mode of transportation, has been inspected and found apparently free from articles the movement of which is prohibited by the quarantine and regulations in this subpart, and from the plant pests referred to in said quarantine; or that the lot or shipment is of such a nature that no danger of infestation or infection is involved; or that it has been treated in a manner to eliminate infestation. A certificate covering treated products must state the treatment applied.

*Continental United States.* The 48 contiguous States, Alaska, and the District of Columbia.

*Fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

*Inspector.* An inspector of the Plant Protection and Quarantine Programs, United States Department of Agriculture.

*Interstate.* From any State into or through any other State.

*Limited permit.* A document issued by an inspector for the interstate movement of regulated articles to a specified destination for:

(1) Consumption, limited utilization or processing, or treatment, in conformity with a compliance agreement; or

(2) Movement into or through the continental United States in conformity with a transit permit.

*Means of conveyance.* For the purposes of §318.58-12 of this subpart,

“means of conveyance” shall mean a ship, truck, aircraft, or railcar.

*Moved (movement and move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person as specified in §318.58(b) with respect to fruits and vegetables and with respect to cactus plants and parts thereof. “Movement” and “move” shall be construed accordingly.

*Person.* Any individual, corporation, company, society, association, or other organized group.

*Plant litter.* Leaves, twigs, or other portions of plants, or plant remains or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

*Sealed (sealable) container.* A completely enclosed container designed for the storage and/or transportation of commercial air, sea, rail, or truck cargo, and constructed of metal or fiberglass, or other similarly sturdy and impenetrable material, providing an enclosure accessed through doors that are closed and secured with a lock or seal. Sealed (sealable) containers used for sea shipments are distinct and separable from the means of conveyance carrying them when arriving in and in transit through the continental United States. Sealed (sealable) containers used for air shipments are distinct and separable from the means of conveyance carrying them before any transloading in the continental United States. Sealed (sealable) containers used for air shipments after transloading in the continental United States or for overland shipments in the continental United States may either be distinct and separable from the means of conveyance carrying them, or be the means of conveyance itself.

*State.* Each of the 50 States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States, and all other territories and possessions of the United States.

*Transit permit.* A written authorization issued by the Administrator for the movement of fruits and vegetables

en route to a foreign destination that are otherwise prohibited movement by this subpart into or through the continental United States. Transit permits authorize one or more shipments over a designated period of time.

*Transloading.* The transfer of cargo from one sealable container to another, from one means of conveyance to another, or from a sealable container directly into a means of conveyance.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971; 54 FR 3580, Jan. 25, 1989; 58 FR 7961, Feb. 11, 1993]

#### §318.58-2 Regulated articles.

(a) *Prohibited movement.* Fruits, vegetables, and other products specified in §318.58 and not eligible for inspection and certification under §318.58-4 or otherwise expressly authorized movement in the regulations in this subpart are prohibited movements.

(b) *Regulated movement.* (1) Subject to the conditions provided in this section, and to any treatment prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, the following fruits and vegetables may be moved when they are free from plant litter, are marked in compliance with §318.58-6, and have been inspected by an inspector and certified by him to be free from injurious insect infestation (including the West Indian fruitfly and the bean pod borer) or to have been given prescribed treatment:

Citrus fruits (orange, grapefruit, lemon, citron, and lime);

Corn (sweet corn on cob);

Mangoes (*Mangifera* spp.), no larger than size 8 (no more than 700 g each), when treated as prescribed in the Plant Protection and Quarantine Treatment Manual;

Peppers;

String beans, lima beans, faba beans, and pigeon peas, in the pod, and fresh okra. However, products within this subparagraph will be certified for movement to Pacific Coast ports or to Atlantic Coast ports south of Baltimore, Maryland, only when they have been treated as prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, and under the supervision of an inspector. Such products may be certified for movement to Baltimore, Maryland, and Atlantic Coast ports north thereof without such treatment, but untreated fresh okra